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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)	
)	
Redevelopment of Spectrum To)	ET Docket No. 92-9
Encourage Innovation in the)	
Use of New Telecommunications)	RM-7981
Technologies)	RM-8004

COMMENTS OF THE NORTH AMERICAN TELECOMMUNICATIONS ASSOCIATION

The North American Telecommunications Association ("NATA") submits the following comments in response to the First Report and Order and Third Notice of Proposed Rulemaking ("Third Notice") in these proceedings, FCC 92-437, released October 16, 1992.

STATEMENT OF INTEREST

NATA is a trade association comprising more than 600 manufacturers, suppliers, distributors, and users of business telecommunications equipment. Founded in 1970, NATA exists to promote competitive markets and healthy sales and support channels for users of business and public communications products and services. NATA has actively participated in FCC proceedings affecting customer premises equipment markets and has consistently sought to promote regulatory policies that encourage broad participation by private companies in the telecommunications equipment and services distribution marketplace. With the recent growth of wireless telecommunications markets, NATA's members are in the forefront of efforts to serve the demand for personal

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communications by developing and marketing wireless PBXs and other wireless office systems and related products and services.

DISCUSSION

In the Third Notice, the Commission requests comment on certain aspects of the plan adopted for relocation to other frequency bands of the fixed microwave licensees that currently occupy the 2 GHz band. NATA's comments address these issues in the context of the Commission's Docket No. 90-314 proposal to allocate a portion of the 2 GHz band for unlicensed personal communications services. Amendment of the Commission's Rules to Establish New Personal Communications Services, Notice of Proposed Rulemaking and Tentative Decision, 7 FCC Rcd 5676, 5693 (1992).

In previous submissions in this docket and in Docket No. 90-314, NATA has stated its strong support for the Commission's proposals to designate frequency bands between 1.85 and 2.20 GHz for the use of emerging telecommunications technologies, and to allocate a portion of those frequencies for unlicensed personal communications service ("PCS") devices such as wireless PBXs and other wireless office communications systems. The allocation of spectrum for such products is necessary because there are currently no frequencies available which can reliably support wireless office communications systems.

As explained in NATA's previous comments in this Docket and Docket No. 92-9, allocation of frequencies for unlicensed PCS devices, including wireless PBXs and other wireless office communications systems, is critical to the Commission's objective

of providing enhanced access to communications services and enabling businesses to realize increases in productivity. Third Notice, ¶ 1.

As discussed in more detail below, the relocation policy set forth by the Commission in the Third Notice presents significant problems as applied to unlicensed PCS and could result in a long delay in the availability to the public of wireless office communications systems. In general, NATA believes the Commission should adopt procedures that facilitate speedy determinations as to whether the conditions for relocation of existing licensees are satisfied.

NATA is actively exploring the procedural issues as they apply to unlicensed PCS, and expects to offer additional suggestions on specific issues in response to the comments of other parties. In these comments, NATA wishes to emphasize two key points.

I. THE COMMISSION SHOULD CLARIFY THAT SPECTRUM-CLEARING PROCEDURES FOR UNLICENSED PCS CAN BE INVOKED BY A COLLECTIVE INDUSTRY ENTITY

The relocation policy set forth by the Commission in the Third Notice is significantly different from what was initially proposed -- and far more burdensome for the providers of emerging technologies. Under the Commission's initial proposal, after the expiration of a transition period, existing licensees could continue to operate only on a secondary basis. Thus, after the end of the transition period, existing licensees who had not voluntarily relocated would be required to accept any interference from new emerging technologies services.

Under the procedures indicated in the Third Notice, existing fixed microwave licensees who do not voluntarily relocate will retain co-primary status for their pre-existing "grandfathered" facilities,¹ even after any transition period expires. Under these procedures, "grandfathered" fixed microwave facilities do not lose interference protection, and cannot be involuntarily relocated unless the party seeking to use the frequencies establishes compliance with several rigorous requirements, including construction of comparable alternative facilities in other bands and payment of all relocation costs.

Compliance with such conditions will burden all applications of emerging technologies, including PCS. However, the burden of compliance is especially heavy in the case of unlicensed PCS devices. By their nature, unlicensed wireless office communications systems will be operated by users rather than by a licensed service provider. When facilities are controlled by thousands of unlicensed users as opposed to a relatively small number of licensed service providers, the likelihood of a particular system interfering with an existing microwave licensee may be very small, but the problems involved in dealing with any interference concerns that do arise loom much larger in relation to the size and cost of individual systems. It is now apparent that the level of concern over such potential interference is significant enough that solutions must be devised early on.

¹The Commission defines these effectively "grandfathered" facilities by reference to a Public Notice issued May 14, 1992. Third Further Notice, n. 5 and ¶ 30.

Indeed, a number of parties, including both microwave licensee representatives and emerging technologies interests, have contended that any spectrum sharing between fixed microwave facilities and unlicensed PCS systems is unacceptable, and that the spectrum must be entirely cleared before unlicensed PCS devices can be marketed. While this proposition may be subject to exceptions, there is enough support for it so that the Commission must recognize that spectrum clearing is critical in the unlicensed PCS context, and that it presents special problems in that context.

The Third Notice does not make clear what type of entity the Commission contemplates would invoke the Commission's relocation procedures in the case of unlicensed PCS. However, invocation of these procedures clearly would not be impractical for most of the thousands of users who are expected to purchase wireless office communications systems once they are made available. For example, it obviously would not be practical to expect that an end user who invests \$50,000 in a wireless PBX would be willing to spend an additional \$50,000 to compensate relocation expenses for a fixed microwave licensee in the vicinity of the PBX. It would be even less practical to expect such an expenditure by an end user who invests one or two thousand dollars in a few wireless extensions for an existing PBX. Thus, if the clearing of spectrum must be addressed individually by each system owner, this requirement undoubtedly would have a serious deterrent effect on users' willingness to purchase wireless systems.

Therefore, it appears that a collective industry entity will have to be established by the Commission to invoke spectrum clearing procedures on behalf of the unknown future users of the spectrum allocated for unlicensed PCS. As discussed in NATA's comments in Docket No. 90-314, such a collective industry entity will require a mechanism for funding -- and recovering from the ultimate beneficiaries -- the cost of compensating microwave licensees for relocation pursuant to the procedures established by the Commission. NATA is currently exploring the feasibility of various such mechanisms in discussions with other parties, and expects to submit additional information and views on the subject as more concrete proposals emerge.

The Commission might choose to address the details of such a mechanism either in this docket or Docket No. 90-314. In either event, however, the Commission should clarify here that such a collective spectrum clearing entity, in the context of unlicensed PCS, will have the right to invoke the applicable relocation procedures established by the Commission.

II. THE COMMISSION SHOULD NOT PROVIDE A TRANSITION PERIOD FOR UNLICENSED PCS

The Commission requests specific comments on the length of any transition period that must expire before involuntary relocation can occur, and on whether there should be any transition period in the case of frequencies allocated to unlicensed PCS devices. Third Notice, ¶ 27. For the reasons stated below, NATA urges the

Commission not to provide any transition period for frequencies allocated to unlicensed PCS.

NATA has explained in the section above that, while licensed PCS providers can individually invoke the Commission's voluntary and involuntary relocation procedures as necessary to clear spectrum allocated to them in the area they intend to serve, in the case of unlicensed PCS it will be necessary to establish a collective industry entity to perform this function on behalf of future users of unlicensed PCS systems. Another difference between unlicensed PCS and licensed emerging technology based services is that in the unlicensed context, the necessary relocation of fixed microwave licensees generally must be accomplished "up front." Licensed service providers may be able to clear the spectrum gradually, by using sharing techniques to adapt their signals to local conditions and by negotiating relocation of existing licensees on an as-needed basis in those areas targeted for initial service. Manufacturers of unlicensed wireless CPE systems, by contrast, do not have the same ability to wait, because they cannot predict in advance where the purchasers of wireless office telephone systems will choose to install them. Therefore, the spectrum must be cleared in advance sufficiently to ensure that a wireless CPE system is usable everywhere that it is likely to be installed, or manufacturers will not be able to justify bringing the systems to market.

Given the impracticality of addressing fixed microwave interference on a system-by-system basis in the frequencies

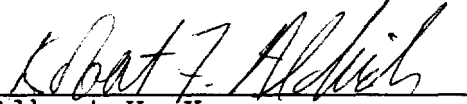
allocated for unlicensed PCS, and the consequent need for a collective industry entity to initiate advance resolution of such interference problems, a lengthy transition period is likely to cause unacceptable delays in the development and deployment of unlicensed PCS. Since existing microwave licensees will have relatively low incentives to negotiate relocation until after any transition period has ended, it is doubtful whether any spectrum-clearing entity established by the Commission could make any significant progress in clearing the spectrum for unlicensed PCS until after the end of the transition period. Once the transition period ended, there would be a further delay while the spectrum-clearing entity goes about its business of securing voluntary or involuntary relocation of licensees as necessary to sufficiently clear the unlicensed PCS spectrum on a nationwide basis. In general, it is only after this entity has finished clearing the spectrum that manufacturers will be able to make firm plans for marketing wireless CPE systems.

Therefore, NATA believes the Commission should not allow any transition period with respect to the frequencies for unlicensed PCS. (The Commission is determining the frequencies to be allocated for this purpose in Docket No. 90-314.) We also believe

it would be appropriate for fixed microwave licensees using these frequencies to be given priority access to other frequency bands.

Third Notice, ¶ 27.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Robert F. Aldrich", is written over a horizontal line.

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